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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 19-CR-00382 EJD
Plaintiff,)	
v.)	MOTION TO EXCLUDE DEFENSE WITNESS
JUAN ROCHA,)	TAYLOR FRECHETTE
a/k/a Pablo Anthony Nunez,)	
Defendant.)	Trial Date: March 9, 2021
)	Trial Time: 9:00 a.m.
)	Courtroom: Courtroom 1, 5th Floor

On Friday, March 12, 2021, counsel for the Defendant sent counsel for the United States a letter stating their intent to call, and their purpose in calling, Special Agent Taylor Frechette as a defense witness. For the reasons below, the defense should be precluded from calling SA Frechette as a defense witness.¹

The testimony the defense seeks to elicit lacks a proper foundation and is irrelevant. The defense

¹ As a threshold matter, at the February 22, 2021 pretrial conference, this Court ordered the defense to provide the government with the names of specific government witnesses it wished to keep under defense subpoena. Dkt. 54. The defense did not provide any names until the end of the March 10th trial day. Moreover, other than the defendant himself (and a mental-health professional that the defense later withdrew), the defense witness list remains empty. Dkt. 66.

1 offered the following proffer for the testimony it seeks from SA Frechette: “If called to testify, SA
2 Frechette will be examined about his knowledge regarding the investigation in this case, including”
3 certain subject matter which can be divided into two categories. First, the defense states that SA
4 Frechette would be examined about “our client’s residence and the circumstances of his arrest in 2019;
5 [and] our client’s use of the name Pablo Anthony Nunez since at least 2000, including his acquisition of
6 identification documents in that name.” As defense counsel knows, SA Frechette is not a percipient
7 witness to any of these matters; consequently, this cannot be their true purpose in calling him as a
8 witness.

9 The defense describes the second category of testimony that they seek to elicit as follows: “the
10 circumstances of [SA Frechette’s] interviews with our client’s family members, Jose Rocha and Alma
11 Serrato-Sanchez, in February and March of this year.” The defense has made it clear, through both
12 motions practice and their cross examination of Jose Rocha, that the “circumstances” they are referring
13 to are threats of immigration consequences. Jose Rocha has already answered questions on that subject,
14 and Alma Serrato-Sanchez will be called and questioned as a defense witness on Tuesday, March 16.
15 The defense has also made it clear that their purpose in probing this subject matter is to demonstrate a
16 potential bias behind the witnesses’ testimony. But as the defense has repeatedly argued, such bias is
17 subjective and personal. Indeed, based on that rationale, and disregarding the Court’s instructions,
18 defense went so far as to ask Jose Rocha about whether “[he] and [his] family are undocumented,” and
19 followed up with a host of questions related to his immigration status. Therefore, there is nothing of any
20 probative value that SA Frechette’s testimony could add. It would merely be used by defense counsel to
21 continue injecting “immigration” into a case that—as the defense declared in its opening statement—has
22 nothing to do with immigration. That may be part of the defense’s strategy, but it doesn’t make it
23 relevant or proper. In other words, the proffered testimony is irrelevant, and its introduction would only
24 serve to further confuse the issues and mislead the jury.

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1 For these reasons, the government respectfully requests that the Court exclude the testimony of
2 SA Taylor Frechette as a defense witness.

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4 DATED: March 14, 2021

Respectfully submitted,

5 STEPHANIE M. HINDS
6 Acting United States Attorney

7 /s/
8 SCOTT SIMEON
9 MOHIT GOURISARIA
Assistant United States Attorneys